

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3695 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UNION OF INDIA & ORS.

Versus

SMT. LAXMIBEN, WD/O AJABHAI BAROT

Appearance:

MR JC SHETH for Petitioners

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/08/96

ORAL JUDGEMENT

Heard learned counsel for the petitioners. This Special Civil Application was ordered to be heard alongwith Special Civil Application No.1864 of 1984, which has been decided by this Court on 1.7.96.

2. This Special Civil Application is of the year 1984 but the petitioner has not taken any steps to get it ready for hearing. Notice which has been given to

respondent has returned with report that she is not residing at the given address. The learned counsel for the petitioner, till today is unable to give out fresh address of the respondent. This writ petition deserves to be dismissed for non prosecution. However, I have gone through the judgment of the Claims Commissioner, Western Railway, Vadodara also.

3. There were three applicants who have claimed the compensation, i.e. widow and two minor children of deceased employee Ajabhai, who was serving in Railway Protection Force at Mehsana. This employee dies in a train accident of 1-Up-Delhi Mail, which took place between Ambliyan and Dangarwa stations. The petitioner has challenged the order only to the extent the compensation Awarded to the respondent No.1. The other dependents, minors, were also awarded compensation, but that order has not been challenged. In case this writ petition is allowed, then this Court will hold that the claimant widow is not entitled for compensation whereas in case of other claimants, the order of the Claims Commissioner will be maintained. Such a contradictory order, this Court will not pass. No justification has been given out by the learned counsel for the petitioner as to why those two claimants may not be joined a party to this petition. Otherwise also, on merits it is a case where the Tribunal passed a just and reasonable order which does not call for interference of this Court sitting under Article 227 of the Constitution of India. I consider it to be appropriate to make reference to the decision of Supreme Court in the case of Laxmikant Revchand Bhojwani and anr. v. Pratapsing Mohansingh Pardeshi, reported in 1995 (6) SCC 576, wherein the Court has considered when the exercise of jurisdiction by the High Court under Article 227 of the Constitution of India, may not be proper. That was a case under Rent Control Act. There was a dispute regarding eviction of tenant under the said Act. In the Rent Control Act, no provision was made for second appeal or revision to the High Court. In that case, the matter was brought to the High Court under Article 227 of the Constitution of India and the Supreme Court held that the High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India in that case. In the present case also, against the order of the Claims Commissioner, no appeal or revision has been provided to the High Court by the legislation. In not providing appeal or revision to the High Court against the order made by the Claims Commissioner, clearly borne out to give finality to the decision of the Authority. This Court sitting under Article 227 of the Constitution of

India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. The prerogative must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice where grave injustice would be done unless High Court interferes. The present one is the converse case where in case this Court interferes with the order made by the Claims Commissioner, it would result in grave injustice to the respondent.

4. Taking into consideration the totality of the facts of the case, this petition has no merits whatsoever and the same deserves to be dismissed. Order accordingly. This Special Civil Application is dismissed. Ad-interim relief, if any, granted by this Court, stands vacated. Rule is discharged with order as to costs.

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(sunil)